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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/724,603

11/28/2000

A. J. Paul Carew

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7656

7590

09/27/2005

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EXAMINER

MEHRA, INDER P

ART UNIT

PAPER NUMBER

2666

DATE MAILED: 09/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/724,603

Applicant(s)

CAREW ET AL.

Examiner

Inder P. Mehra

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. This is in reference to response dated 5/19/2005 which has been fully considered and made of record. Based on this amendment, Claims 1-47 are now pending. out of which claims 1, 13, 28 and 47 are amended.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969). A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b). Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1, 13, 28 and 38 are rejected under the judicially created doctrine of obviousness-

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type double patenting as being unpatentable over claims 1, 4, 5, 7, 9, 10, 13, 15, and 18 of U.S. Patent No. 6,526,046 in view of US Patent No. 6,839,342). Although the conflicting claims are not identical, they are not patentably distinct from each other because

For claims 1, 13, 28 and 38, claims 1, 4, 5, 7, 9, 10, 13, 15 and 18 of U.S. Patent No. 6,526,046 disclose:

“A gateway for communicating telecommunication information between a telecommunication network and customer premises equipment, the gateway comprising (see claim 1 of U.S. Patent No. 6,526,046):

- a telecommunication interface operable to receive first telecommunication information for a first subscriber and second telecommunication information for a second subscriber; (see claim 1 of U.S. Patent No. 6,526,046), (see claim 1 of U.S. Patent No. 6,526,046); and
- a packetization module operable to generate first ATM cells (first data packets) for communicating the first telecommunication information using a first ATM adaptation layer (first communication protocol) associated with the first subscriber and to generate second ATM cells (data packets) for communicating the second telecommunication information using a second ATM adaptation layer (second data communication protocol) associated with the second subscriber; (see claim 1 of U.S. Patent No. 6,526,046).

For claims 1, 13, 28 and 38, claims 15 and 18 of U.S. Patent No. 6,526,046 disclose:

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- wherein the gateway is further operable to communicate the ATM cells to the customer premises equipment using DSL, cable, wireless, or other broadband distribution platforms(see claims 15 and 18 of U.S. Patent No. 6,526,046).

For claims 1, 13, 28 and 38, claim 7 of US Patent No. 6, 512,764 discloses “an Internet Protocol (IP), Asynchronous Transfer Mode (ATM), or Frame Relay standard.

For claims 1, 13, 28 and 38 of US Patent No. 6, 839, 342 discloses ‘SS7.

Applicant’s claims 1, 13, 28 and 38 merely broaden the scope of US Patent No. 6,526,046 claims 1, 4, 5, 7, 9, 10, 13, 15 and 18 by replacing the terms “ATM cells”, “a first ATM adaptation layer (AAL)” (for claims 1, 4, 5, 7, 9, 10, 13, 15 and 18) with “data packets”; “a first data communication protocol” respectively for claims 1, 13, 28 and 38. The ATM cells and data packets; and “a first data communication protocol” and “a first ATM adaptation layer (AAL)” are the same application elements. It has been held that the substitution of an element and its function is an obvious expedient if the remaining elements perform the same function as before. In re karlsen, 136 USPTO 184 (CCPA). Also, note Ex Parte Raine, 168 USPQ 375 (bd. App. 1969) ; substitution of a reference element whose function is needed would be obvious to one skilled in the art.

The use of packets in ATM network is well known in the art.

Applicant’s claims 9, 21, and 25-27 recite additional elements Digital Subscriber Line Access multiplexer (DSLAM) and Cable Modem Termination System (CMTS), and base station controller. These are well known in the art , and disclosed by Lor et al (US Patent No. 6,201,562), refer to fig. 6, col. 6 lines 52-62 (see paragraph 11 below);

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4, 13-16, 28-31 and 38-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Focsaneanu et al** (US Patent No. 5,610,910), hereinafter, Focsaneanu; in view of **Chao et al** (US Patent No. 5,050,164), hereinafter Chao, and, further, in view of **Gerszberg et al** (US Patent No. 6,546,016), hereinafter, Gerszberg..

For claims 1,13, 28 and 38, Focsaneanu discloses a gateway (access module 208) for communicating telecommunication information, refer to fig. 7, refer to col. 4 lines 40-67; comprising:

(one or more packetization (extracting information content, determining the protocol, routing and address refer to col. 5 line 1-12) modules operable to receive first data packets from broadband network using a first data communications protocol and to extract first data communications protocol ---first subscriber---second data packets from a second broadband network using a second data communication protocol----second data packets), refer to col. 6 line 53-col. 7 line 50;

step of extracting information content (packetization) to determine required services---between CPE and the communication network; determining appropriate routing; (one or more telecommunication interface modules operable to communicate the first telecommunication

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information to a telecommunication network using a first telecommunication interface associated with the first subscriber-----second subscriber), refer to col. 4 lines 40 –col. 5 line 12.

Focsaneanu discloses a memory operable to store subscriber profiles--- telecommunication interface, **as recited by claim 28**, (an access module (gateway), further, includes a storage (memory) for storing information concerning user profile (subscriber profile), refer to col. 5, lines 2-6; database (memory), refer to col. 8 lines 14-16;

Focsaneanu discloses packetized data traffic and packetized voice, refer to col. 11 lines 1-1-15, (a packetization module -----information associated with a subscriber (user profile, col. 11 line 2) from the data packets using a data communication protocol (ATM and Frame Relay, col. 11 line 6)-----subscriber, as recited by claim 28);

Focsaneanu discloses a telecommunication interface -----subscriber, as recited by **claim 28**; refer to col. 10 line 46-col. 11 line 6.

Focsaneanu does not disclose expressly, “using a first data communication protocol”, and “ wherein the first and second broadband networks include any of digital subscriber line, cable and wireless platform”

Chao discloses, a *unique protocol* capable of handling services with multiple priorities (unique protocol is unique to each subscriber’s profile as stored / desired”, refer to col. 17 lines 5-7;

Gerszberg discloses, ““ wherein the first and second broadband networks include any of digital subscriber line, cable and wireless platform”, refer to figs. 1A and 1C, col. 2 lines 57-67, col. 1 lines 25-35;

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It would have been obvious to a person of ordinary skill in the art at the time of the invention to use the protocol unique to the subscriber as prescribed in subscriber's profile, as taught by Chao and gateway connected with cable, as taught by Gerszberg. The use of unique protocol in broadband network is advantageous to CPE. The suggestion/motivation to do so would have been to provide desired characteristics for customer premises network which uses broadband to deliver all services.

6. For claims 2-3, 14-15, 29-30, and 39-40, Focsaneanu discloses packetized data traffic and packetized voice, refer to col. 11 lines 1-15, (a packetization module -----identify the subscriber (identify a service request, refer to col. 8 line 1-11)---- subscriber----packets) (user profile, col. 11 line 2).

For claims 4, 16, 31 and 41, Focsaneanu discloses, "the subscriber identifier is a name address, or telephone number, refer to col. 8 lines 16-22, 30, col. 13 lines 62-67.

7. Claims 5-7, 17-19, 32-33, and 42-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Focsaneanu et al**, hereinafter, Focsaneanu; in view of **Chao et al**, hereinafter Chao, **Gerszberg et al**, hereinafter, Gerszberg. as applied to claims 1, 13, 28 and 38 above; further in view of Gerszberg **and Hortenslus, Peter Dirk, Lumelsky, Leon, and Narasimhan, Anand** (EP 0789470), hereinafter, Hortenslus.

For claims 5-7, 17-19, 32-33, and 42-43, Focsaneanu, Chao and Gerszberg disclose all the features and limitations of the subject matter of claims 5, 17, 32 and 42 (including compression techniques at gateway, refer to col. 7 line 3 of Focsaneanu; and memory operable to

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store first subscriber profile----compression algorithm----, as recited by claims 6, 18, 32 and 42, database for packet assembly and disassembly, refer to col. 8 lines 22-24 and col. 7 lines 3 and col. 11 lines 15-21), with the exception of the following limitation: “compression modules operable to de-compress the first telecommunication information-----subscriber”

Hortenslus discloses, ““compression modules operable to de-compress the first telecommunication information-----subscriber”, refer to col. 6 lines 37-50;

It would have been obvious to a person of ordinary skill in the art at the time of the invention to use the compression and de-compression technique from the algorithm unique to the subscriber as prescribed in subscriber’s profile, as taught by Hortenslus. The use of unique technique in broadband network is advantageous to CPE. The suggestion/motivation to do so would have been to provide desired characteristics for customer premises network which uses broadband to deliver all services and also to save bandwidth.

8. Claims 8, 10, 12, 20, 22, 24, 34-35, 37, 44-45 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Focsaneanu et al**, hereinafter, Focsaneanu; in view of **Chao et al**, hereinafter Chao, and Gerszberg, as applied to claims 1, 13, 28 and 38 above; further in view of **Pounds et al** (US Patent No. 6,560,222), hereinafter, Pounds.

For claims 8, 10, 12, 20, 22, 24, 34-35, 37, 44-45, and 47, both Focsaneanu and Chao disclose all the features and limitations of claims 8, 20, 34 and 44, with the exception of, “a management module operable to assign at least *one time slot of a time division multiplexing (TDM) bus* to communicate the first telecommunication information----“, as recited by claims 8, 20, 34 and 44; “*a data packet bus —first data packets to packetization module— and TDM*

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bus---telecommunication information---“, as recited by claims 10, 22, 35 and 45; and “*echo cancellation modules ---on the first telecommunication interface*”, as recited by claims 12, 24, 37 and 47.

Pounds discloses “a management module operable to assign at least *one time slot of a time division multiplexing (TDM) bus* to communicate the first telecommunication information---“; refer to col. 8 lines 60-63; ““*a data packet bus ---first data packets to packetization module--- and TDM bus---telecommunication information---*“, refer to col. 9 lines 50-53; and “*echo cancellation modules ---on the first telecommunication interface*, refer to col.8 lines 2.

Pounds does not disclose expressly whether echo cancellation be used in the second telecommunication information

It would have been obvious to a person of ordinary skill in the art at the time of the invention to assign at least *one time slot of a time division multiplexing (TDM) bus and echo cancellation* to communicate the first telecommunication information. The capability of using time slots of a time division bus is provided by combining it in access module 234 of fig. 8 . The suggestion/motivation to do so would have been to provide desired characteristics of voice data signals for customer premises network which uses broadband to deliver all services and also to save bandwidth.

9. Claims 9, 21, and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Focsaneanu et al**, hereinafter, Focsaneanu; in view of **Chao et al**, hereinafter Chao, and, further, in view of **Gerszberg et al**, hereinafter, Gerszberg, as applied above, further in view of Lor et al (US Patent No. 6,201,562).

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For claims 9, 21, and 25-27, Focsaneanu discloses a gateway (access module 208) for communicating telecommunication information, refer to fig. 7, refer to col. 4 lines 40-67; comprising:

(one or more packetization (extracting information content, determining the protocol, routing and address refer to col. 5 line 1-12) modules operable to receive first data packets from broadband network using a first data communications protocol and to extract first data communications protocol ---first subscriber---second data packets from a second broadband network using a second data communication protocol---second data packets), refer to col. 6 line 53-col. 7 line 50;

step of extracting information content (packetization) to determine required services---between CPE and the communication network; determining appropriate routing; (one or more telecommunication interface modules operable to communicate the first telecommunication information to a telecommunication network using a first telecommunication interface associated with the first subscriber-----second subscriber), refer to col. 4 lines 40 –col. 5 line 12.

Focsaneanu discloses a memory operable to store subscriber profiles---telecommunication interface, **as recited by claim 28**, (an access module (gateway), further, includes a storage (memory) for storing information concerning user profile (subscriber profile), refer to col. 5, lines 2-6; database (memory), refer to col. 8 lines 14-16;

Focsaneanu discloses packetized data traffic and packetized voice, refer to col. 11 lines 1-15, (a packetization module -----information associated with a subscriber (user profile, col. 11 line 2) from the data packets using a data communication protocol (ATM and Frame Relay, col. 11 line 6)-----subscriber, as recited by claim 28);

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Focsaneanu discloses a telecommunication interface -----subscriber, as recited by **claim 28**; refer to col. 10 line 46-col. 11 line 6.

Focsaneanu does not disclose expressly, “using a first data communication protocol”, and “ wherein the first and second broadband networks include any of digital subscriber line, cable and wireless platform”

Chao discloses, a ***unique protocol*** capable of handling services with multiple priorities (unique protocol is unique to each subscriber’s profile as stored / desired”, refer to col. 17 lines 5-7;

Gerszberg discloses, ““ wherein the first and second broadband networks include any of digital subscriber line, cable and wireless platform”, refer to figs. 1A and 1C, col. 2 lines 57-67, col. 1 lines 25-35;

Lor discloses, “wherein the first data link communicates the first data packets to a digital subscriber line access multiplexer (DSLAM); and the second data link communicates the second data packets to a cable modem termination system (CMTS) or a base station controller (BSC), as recited by claims 68, 82, 86, and 112”, refer to fig. 6, col. 6 lines 52-62;

It would have been obvious to a person of ordinary skill in the art at the time of the invention to use the protocol unique to the subscriber as prescribed in subscriber’s profile, as taught by Chao, and DSLAM and CMTS . These capabilities can be implemented by using the systems used by Chao and Lor at CPE. The suggestion/motivation to do so would have been to provide desired characteristics for customer premises network which uses broadband to deliver all services at high bandwidth.

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10. Claims 11, 23, 36, and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Focsaneanu et al**, hereinafter, Focsaneanu; in view of **Chao et al**, hereinafter Chao, and Gerszberg, as applied to claims 11, 23, 36 and 46 above; further in view of **Lyles et al** (US Patent no. 6,563,829), hereinafter, Lyles.

For claims 11, 23, 36, and 46, both Focsaneanu, Chao and Gerszberg, disclose all the features and limitations of claims 11, 23, 36, and 46 and, with the exception of the limitation, ***“IEEE 802.6 bus operable to communicate the first data packets---”***;

Lyles discloses, ***“IEEE 802.6 bus operable to communicate the first data packets---”***; refer to col. 5 lines 9-11---for point to point link between user and terminal equipment sites;

It would have been obvious to a person of ordinary skill in the art at the time of the invention to use ***“IEEE 802.6 bus operable to communicate the first data packets---”***; refer to col. 5 lines 9-11---for point to point link between user and terminal equipment sites;. The capability of using ***IEEE 802.6 bus*** is provided by combining it in access module 234 of fig. 8. The suggestion/motivation to do so would have been to provide desired characteristics of voice data signals for customer premises network, as set forth in user profile, which uses broadband to deliver all services and also to save bandwidth.

Response to Arguments

11. Applicant's arguments filed 5/19/2005 have been fully considered but they are not persuasive.

Applicant has repeated some of the same arguments as were raised in his response dated 4/30/04 and 9/24/2004.

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Applicant argues “The filing date of the present Application is November 2000. The filing date of U.S. Patent No. 6,526,046 is April 24, 2001. Thus, the present Application has an earlier effective filing date as compared to U.S. Patent No. 6,526,046. Therefore, obviousness-type double patenting does not apply to this Application when compared to U.S. Patent No. 6,526,046.

In response, please, refer to, MPEP § 804. b.1 *“In determining whether a nonstatutory basis exists for a double patenting rejection, the first question to be asked is — does any claim in the application define an invention that is merely an obvious variation of an invention claimed in the patent? If the answer is yes, then an “obviousness-type” nonstatutory double patenting rejection may be appropriate. Obviousness-type double patenting requires rejection of an application claim when the claimed subject matter is not patentably distinct from the subject matter claimed in a commonly owned patent when the issuance of a second patent would provide unjustified extension of the term of the right to exclude granted by a patent. See Eli Lilly & Co. v. Barr Labs., Inc., 251 F.3d 955, 58 USPQ2d 1865 (Fed. Cir. 2001); Ex parte Davis, 56 USPQ2d 1434, 1435-36 (Bd. Pat. App. & Inter. 2000)”*. This is regardless of the filing date. Therefore, obviousness type double patenting applies.

In one instance, refer to page 21, second paragraph of “Remarks”, applicant agrees that **“however, it is easily recognizable that protocols for establishing connections are not the same as data communication protocols. Thus, the Focsaneanu, et al. patent is insufficient by itself to support a rejection of the claims.”**

Applicant has not responded to examiner’s responses. These are re-iterated as follows:

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Applicant argues, “ Focsaneanu fails to disclose the ability to interface with first and second data communication protocols and also fails to disclose the types of broadband networks provided in the claims. Further, Applicant argues that Chao does not provide the ability to interface with first and second data communication protocols.

In response, it is stated that Focsaneanu discloses first and second data communication protocols, **(connection requests and grants are embodied in many different protocols, refer to col. 7 lines 60-62)** and discloses, for example, the types of broadband networks **(ATM and ISDN, refer to col. 4 lines 40-45 and col. 7 lines 15-35)** provided in the claims.

In response, further, it is stated that Chao discloses the ability to interface with first and second data communication protocols **(a unique protocol , refer to col. 17 lines 5-7). This means that protocol is unique to application requirements- in other words, different protocol for different network, specifically is unique to the network.**

Applicant argues “Independent Claims 1, 13, 28 and 38 recite in general the ability to interface with first and second data communication protocols that include ATM, and Frame Relay. These claims also recite that the associated broadband networks providing data packets can any of digital subscriber line, cable, or wireless platforms. These claims also recite that the telecommunication interface formats maybe any of GR-303, TR-8, SS7, V5, ISDN, and unbundled analog lines”.

In response, it is stated that these limitations are disclosed by US Patent Nos.6,512,764 and 6,839, 342 respectively, as above in office action paragraph 3.

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Applicant argues that the portions of the Focsaneanu, et al. patent and the Gerszberg, et al. patents cited by the Examiner are merely directed to bandwidth allocation and not any ability to interface with first and second data communication protocols. Thus, the Gerszberg, et al. patent does not disclose interfacing with first and second data communication protocols as required by the claimed invention.

In response, it is stated that Gerszberg discloses, “A XDSL modem and a cable modem operate *according to different protocols*”, refer to col. 9 lines 20-25, “packets received from the FMP/C-FMP in the network-CPE direction (including voice, data, video, and control packets) may be demultiplexed, *reformatted with an appropriate protocol*”, refer to col. 16 lines 14-19.

Applicant argues that Gerszberg does not disclose interfacing with first and second data communication protocols, because Gerszberg discloses a single type of communication capability to and from customer premises”.

In response it is stated that Focsaneanu discloses **alternate use of the local access by different services can be accomplished by negotiation, on a service –by- service, call-by-call basis between access module and CPE connector of the amount of bandwidth to be allocated. For example on a digital loop (DSL) using 2BIQ coding technology –may be allocated.**

In response, further, it is stated that Gerszberg discloses “**a separate cable modem connected intelligent terminal may provide such services ----other digital services depending upon subscriber requirements and capabilities, refer to col. 2 lines 50-56**”.

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Applicant argues, the Chao, et al. patent is merely directed to an optical customer premises network for interfacing customer premises equipment. The portion of the Chao, et al. patent cited by the Examiner is concerned with a protocol for handling multiple priorities, which is not remotely related to interfacing with first and second data communication protocols. The unique protocol discussed in the Chao, et al.

In response, it is stated that, **under MPEP § 2141. 01 (a), In re Oetiker, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). See also In re Deminski, 796 F.2d 436, 230 USPQ 313 (Fed. Cir. 1986); In re Clay, 966 F.2d 656, 659, 23 USPQ2d 1058, 1060-61 (Fed. Cir. 1992) ("A reference is reasonably pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem."); * Wang Laboratories Inc. v. Toshiba Corp., 993 F.2d 858, 26 USPQ2d 1767 (Fed. Cir. 1993)>; and State Contracting & Eng'g Corp. v. Condotte America, Inc., 346 F.3d 1057, 1069, 68 USPQ2d 1481, 1490 (Fed. Cir. 2003) (where the general scope of a reference is outside the pertinent field of endeavor, as contended by applicant, the reference may be considered analogous art if subject matter disclosed therein is relevant to the particular problem with which the inventor is involved).**

Applicant argues, "the Examiner has yet to show how the unique protocol described in the Chao, et al. patent is able to interface with first and second data communication protocols provided in the claimed invention.

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In response, it is stated that **unique protocol , refer to col. 17 lines 5-7, means that protocol is unique to application requirements of a particular network- in other words, different protocol for different network, specifically is unique to the network.**

In light of above explanation, arguments by applicant are not persuasive.

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Inder P. Mehra whose telephone number is 571-272-3170. The examiner can normally be reached on Monday through Friday from 8AM to 5PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Inder Pal Mehra

Inder P Mehra

Examiner

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9/24/05

DANG TON
PRIMARY EXAMINER